



# RESEARCH BRIEF

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## A Legal Study of the Future of Chinese Infrastructure Development in the Western Balkans in the Light of the EU Rebuilding of Ukraine

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### Key Points:

- Strengthening Chinese development projects in the Western Balkans might be jeopardized by China's stance on the war in Ukraine and by the EU strategic plan for Ukraine's afterwar reconstruction.
- China's image in the Western Balkans may be substantially damaged due to the war in Ukraine.
- If China openly condemned the Russian military campaign in Ukraine and expressed the intention to contribute to rebuilding Ukraine, then China could assert its position as a global peacekeeping force and would be potentially viewed as a role model for development.

### Introduction

China is constantly seeking to build a positive image with respect to its infrastructure development and investment initiatives abroad, and also in terms of the promotion of the rule of

law in the host countries. The ongoing war in Ukraine has seriously jeopardized the implementation of such projects, including those under the mantle of the Belt and Road Initiative (BRI), in Central and Eastern Europe thus preventing Ukraine from being one of the regional hubs for Chinese trade and logistics. At the same time, the EU has expressed its willingness to actively participate in the afterwar rebuilding of Ukraine, which is expected to be one of the largest infrastructure and investment projects in modern European history after reconstruction following World War II. But how would it affect global Chinese infrastructure initiatives and China's intention to promote the rule of law in BRI countries? In particular, will the future of the BRI in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia) a region where European and Chinese investments largely overlap, be jeopardized by the growing influence of the EU in the global investment arena? And finally, can the successful EU rebuilding of Ukraine according to European standards become a game-changer in the competition between Chinese and European

infrastructure development initiatives in the Western Balkans? This Research Brief will seek to give preliminary answers to these questions.

### **The Belt and Road Initiative as a Tool to Promote the Rule of Law Worldwide**

China's BRI has been a focus of numerous legal and political studies and has received controversial feedback on its contribution to the promotion of the rule of law and human rights in host countries. Chinese authorities have repeatedly underscored the fact that China is not aiming to overthrow the existing world order and act against the principles enshrined in the UN Charter.<sup>1</sup> Moreover, Xi Jinping has claimed that China is respecting and promoting the rule of law in BRI member countries.<sup>2</sup> These ideas are echoed by some Chinese scholars who suggest that "China's participation in the Belt and Road Initiative in the past seven years not only facilitated the fair application of international rules and interconnection but also greatly improved the establishment of an international organization with a new style, which is compatible with the spirit of international law".<sup>3</sup> At the same time, Chinese discourses on the rule of law often differ depending on the target audience. So, for example, in a speech at The First Meeting of the

Central Committee for Comprehensively Governing the Country by Law in 2018, President Xi said that "China should be good at applying the rule of law in international affairs. In the external struggle, we [China] should take up the weapon of law, occupy the commanding heights of the rule of law, and dare to say no to the saboteurs and spoilers. The global governance system is in a critical period of adjustment and change, and we [China] should actively participate in the formulation of international rules and be participants, promoters and leaders in the process of global governance change".<sup>4</sup>

### **EU-China 'Discursive War' on Human Rights**

Many scholars have claimed that there is a 'discursive war' that is already underway between China and the West on human rights issues.<sup>5</sup> For this Brief, it is deemed particularly important to point out that this discursive war is also spreading to the sphere of infrastructure development and investments. In June 2021, the United States of America officially announced the Build Back Better World project, "an affirmative initiative for meeting the tremendous infrastructure needs of low- and middle-income countries", while in December 2021 the EU announced its own project called Global Gateway.<sup>6</sup> As the European

<sup>1</sup> National Committee on US China Relations, *Chinese President Xi Jinping Addresses the American Public* (Sept. 22, 2015), <https://www.ncuscr.org/event/chinese-president-xi-jinping-addresses-american-public/>.

<sup>2</sup> The Consulate General of The People's Republic of China in Los Angeles, *Xi Jinping Attends the Opening Ceremony of the Second Belt and Road Forum for International Cooperation (BRF) and Delivers a Keynote Speech* (Apr. 27, 2019), <https://www.mfa.gov.cn/ce/cgla/eng/topnews/t1659374.htm>.

<sup>3</sup> 陈思静 (Chen Sijing), "一带一路"倡议与中国国际法治话语权问题研究 (*Research on the Belt and Road Initiative and China's Discourse on the International Rule of Law*) Wuhan University Dissertation (2020), <http://www.pktsq.com/degree/focaddba3a7edcab2147d8b607218ee2.html>.

<sup>4</sup> 习近平 (Xi Jinping), 加强党对全面依法治国的领导 (*Strengthen the Party's leadership over the comprehensive rule of law*) (Feb. 15, 2019), [http://www.qstheory.cn/dukan/qs/2019-02/15/c\\_1124114454.htm](http://www.qstheory.cn/dukan/qs/2019-02/15/c_1124114454.htm).

<sup>5</sup> Seng In Chan & Weiqing Song, *Telling the China story well: A discursive approach to the analysis of Chinese foreign policy in the "belt and road" initiative*, 5 CHINESE POL. SCI. REV. 417-437 (2020).

<sup>6</sup> The White House, *FACT SHEET: President Biden and G7 Leaders Launch Build Back Better World (B3W) Partnership* (June 16, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/12/fact-sheet-president-biden-and-g7-leaders-launch-build-back-better-world-b3w-partnership/>.

Commission puts it, “through a Team Europe approach, Global Gateway will bring together the EU Member States with their financial and development institutions, including the European Investment Bank (EIB), and the European Bank for Reconstruction and Development (EBRD), and seek to mobilize the private sector in order to leverage investments for a transformational impact”.<sup>7</sup> Ursula von der Leyen (President of the European Commission) said that “it is for us important to make sure that there is a different way to deliver in this infrastructure globally and to show that mainly democracy, value-driven investments can deliver on the ground”.<sup>8</sup>

According to the EU Commission statement on the Global Gateway published in December 2021, “Global Gateway will offer a values-based option for partner countries to choose from when deciding how to meet their infrastructure development needs. This means adhering to the rule of law, upholding high standards of human, social, and workers' rights and respecting norms from international rules to intellectual property and open public procurement”.<sup>8</sup>

### **The Western Balkans at the Crossroads of European and Chinese Investment Initiatives**

The Western Balkans is a region where European and Chinese investments largely overlap. It is a focus of both China's BRI and the EU Global Gateway, and, from the BRI point of view, the Western Balkan states are highly important as

they can potentially connect China to the EU market. Chinese investments are present in all six countries of the Western Balkans: Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia, with cooperation mainly based on Memoranda of Understanding and the 16+1 (formerly 17+1) initiative proposed in 2012 by the Chinese Ministry of Foreign Affairs to promote business and investment between China and Central and Eastern European countries. As for the EU, in February 2022 the European Commission launched a “€3.2 billion investment package to advance sustainable connectivity in the Western Balkans”.<sup>9</sup> This package is aimed at backing the Global Gateway initiative in the region and implies the “support of 21 transport, digital, climate and energy connectivity projects”, the implementation of which is expected during 2022 and 2023.<sup>9</sup> Moreover, in May 2022 the European Commission and the EIB signed an Agreement “through which “the European Commission will support up to €26.7 billion of EIB financial operations...”, and the Western Balkans is one of the target regions of these investments.<sup>10</sup> Both the EU and China are aspiring to take the lead in international development in this region, and although there is certainly some space for cooperation, the interaction between China and Europe in the Western Balkans can be called competitive rather than allied.

<sup>7</sup> European Commission, *Joint Communication to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank* (Dec. 1, 2021), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=JOIN%3A2021%3A30%3AFIN>.

<sup>8</sup> European Commission, *Statement by President von der Leyen on the Global Gateway* (Dec. 1, 2021), [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_21\\_6522](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_21_6522).

<sup>9</sup> European Commission, *European Commission launches €3.2 billion investment package to advance sustainable connectivity in the Western Balkans* (Feb. 25, 2022), [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_1362](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_1362).

<sup>10</sup> European Commission, *European Commission and EIB sign an Agreement to enable further investments worldwide* (May 10, 2022), [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_2870](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2870).

## The Impact of the War in Ukraine on the BRI in Europe

The ongoing war in Ukraine has put many BRI projects in Europe at risk of disruption. Logistic channels connecting China and Europe have to be restructured as freight trains from China cannot reach Ukraine and there are also severe problems with transporting goods from China to Europe through Russia and Belarus. According to the statistics, for the first time after more than 10 years of growth, freight traffic between China and Europe is stagnating.<sup>11</sup> At the same time, cargo shipments going through the Central Asia-West Asia corridor to Europe are “expected to reach 3.2 million metric tons in 2022, a sixfold increase over the previous year”.<sup>12</sup> On February 4, 2022, shortly before the war broke out, Russia and China signed a Joint Statement on International Relations Entering a New Era and Global Sustainable Development, where both sides declared that “friendship between the two States has no limits, there are no “forbidden“ areas of cooperation, strengthening of bilateral strategic cooperation is neither aimed against third countries nor affected by the changing international environment and circumstantial changes in third countries”.<sup>13</sup> Although China has tried to position itself as a peacekeeper promoting a so-called six-point initiative “to prevent a massive humanitarian crisis”, it dissented when the International Court

of Justice ruled that Russia should “immediately suspend the military operations that it commenced on 24 February”.<sup>14</sup>

China’s stance on the Russia-Ukraine war runs counter to both the EU’s official position and, importantly, the position of most Western Balkan states. Four countries in the Western Balkans – Albania, Bosnia and Herzegovina, Montenegro, and North Macedonia – have aligned themselves with all the EU sanctions imposed on Russia and Belarus, Kosovo has implemented the majority of the sanctions while Serbia has aligned with two.<sup>15</sup>

At a time when European moral and political integrity is being challenged and the world is becoming increasingly polarized by the Russian aggression in Ukraine, it is almost certain that Chinese infrastructure development initiatives in Europe will be negatively affected by the current crisis in one way or another. As Chinese and EU investments can be seen as competing in promoting their respective values in some regions by trying to advance different legal visions, the Ukrainian crisis may become a watershed in this competition. I hypothesize that China’s division with the Western Balkans over the Russian military operation in Ukraine, coupled with the announced future reconstruction of Ukraine by the EU and the generally deteriorating image of China around the world in recent years, may be

<sup>11</sup> Marco Raimondi, *New Silk Road growth almost reaches rock bottom* RAILFREIGHT.COM (July 5, 2022), <https://www.railfreight.com/beltandroad/2022/07/05/new-silk-road-growth-almost-reaches-rock-bottom/?gdpr=accept>.

<sup>12</sup> Reid Standish, *China’s Belt And Road Focuses On New Eurasian Trade Routes Due To Ukraine War* RADIOFREEEUROPE (July 18, 2022), <https://www.rferl.org/a/china-ukraine-war-eurasian-trade-routes-russia-standish/31948987.html>.

<sup>13</sup> President of Russia, *Joint Statement of the Russian Federation and the People’s Republic of China on the International Relations Entering a New Era and the Global*

*Sustainable Development* (Feb. 4, 2022), <http://en.kremlin.ru/supplement/5770>.

<sup>14</sup> *International Court orders Russia to ‘immediately suspend’ military* UN NEWS (Mar. 16, 2022), <https://news.un.org/en/story/2022/03/1114052>.

<sup>15</sup> Aleksandar Ivković, *What is the state of the implementation of the sanctions on Russia in the Western Balkans?* EUROPEAN WESTERN BALKANS (June 4, 2022), <https://europeanwesternbalkans.com/2022/06/04/what-is-the-state-of-the-implementation-of-the-sanctions-on-russia-in-the-western-balkans/>.

highly detrimental to China's efforts to "occupy the commanding heights of the rule of law", as proclaimed by Xi Jinping.<sup>16,17</sup>

### The Planned Rebuilding of Ukraine and the Role of China

From the Russian military operation starting on February 24, 2022, to May 2022, the EU committed around €4.1 billion "to support Ukraine's overall economic, social and financial resilience in the form of macro-financial assistance, budget support, emergency assistance, crisis response and humanitarian aid" and endorsed a macro-financial assistance package of €9 billion.<sup>18</sup> On August 1-2, 2022, the EU Commission disbursed the first €1 billion.<sup>19</sup> The EU announced its commitment to the after war rebuilding of Ukraine in May 2022 and in July 2022 EU delegates participated in the Ukraine Recovery Conference in Lugano, Switzerland as a result of which the Ukraine Recovery Plan was adopted.<sup>20</sup>

As this document states, conducting rule of law reform is one of the fundamental prerequisites of the Recovery Plan. Moreover, the Recovery Plan has identified 15 "National Programs" to boost Ukraine's Recovery and the outlined "funding

analysis of the immediate priorities is estimated at around \$60-65 billion", whereas "total funding needs are more than \$750 billion."<sup>19</sup> Both the EIB and the EBRD expressed their commitment to facilitating the EU's reconstruction efforts and it is worth noting that these banks are the two leading financiers of EU investment initiatives in the Western Balkans and key promoters of EU values through investment. At the same time, China neither participated in the Ukraine Recovery Conference nor openly expressed its intention to contribute to the afterwar reconstruction of Ukraine. Since the start of the conflict, Xi Jinping and President Zelenskyy have not spoken, although in March 2022 the Office of the President of Ukraine announced a possible talk between the leaders of the two countries.<sup>21</sup> So, even though, as President Zelenskyy said, "the reconstruction of Ukraine will be the greatest contribution to the maintenance of global peace" and "will unite the democratic world to the extent that everyone will see", China is not positioning itself to take a lead in the reconstruction process.<sup>22</sup> It can be reasonably expected that China's passiveness in this regard will have a detrimental impact on China's image in countries where it is seeking to

<sup>16</sup> 习近平 (Xi Jinping), 加强党对全面依法治国的领导 (Strengthen the Party's leadership over the comprehensive rule of law) (Feb. 15, 2019), [http://www.qstheory.cn/dukan/qz/2019-02/15/c\\_1124114454.htm](http://www.qstheory.cn/dukan/qz/2019-02/15/c_1124114454.htm).

<sup>17</sup> Philippe Le Corre, *The Ukraine War's Impact on Sino-European Relations*, Harvard Kennedy School Ash Center (May 17, 2022), <https://ash.harvard.edu/ukraine-wars-impact-sino-european-relations>.

<sup>18</sup> European Commission, *Ukraine: Commission presents plans for the Union's immediate response to address Ukraine's financing gap and the longer-term reconstruction* (May 18, 2022), [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3121](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3121).

<sup>19</sup> European Commission, *European Commission disburses first tranche of the new €1 billion macro-financial assistance for Ukraine* (Aug. 1, 2022), [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_4783](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_4783).

<sup>20</sup> National Recovery Council, *Ukraine's National Recovery Plan* (July 2022), [https://uploads-ssl.webflow.com/621f88db25bf24758792dd8/62c166751fcf4105380a733\\_NRC%20Ukraine%2027s%20Recovery%20Plan%20blueprint\\_ENG.pdf](https://uploads-ssl.webflow.com/621f88db25bf24758792dd8/62c166751fcf4105380a733_NRC%20Ukraine%2027s%20Recovery%20Plan%20blueprint_ENG.pdf)

<sup>21</sup> Denis Karlovskyy, *Офіс президента сподівається, що Сі Цзіньпін поговорить із Зеленським* (*The President's Office hopes that Xi Jinping will talk to Zelenskyy*) UKRAINSKA PRAVDA (Mar. 22, 2022), <https://www.pravda.com.ua/news/2022/03/22/7333714/>.

<sup>22</sup> The President of Ukraine, *The reconstruction of Ukraine will be the greatest contribution to the maintenance of global peace - President's speech at the Ukraine Recovery Conference in Lugano* (July 4, 2022), <https://www.president.gov.ua/en/news/vidbudova-ukrayini-bude-najbilshim-vneskom-upidtrimku-globa-76261>.

promote its legal vision through infrastructure development, including in the Western Balkans. At the same time, the EU image in the Western Balkans is expected to improve especially if EU efforts to rebuild Ukraine are successful.

### **Preliminary Conclusions**

The future of the BRI in the Western Balkans might be jeopardized by China's stance on the war in Ukraine and by the EU strategic plan for Ukraine's afterwar reconstruction. The war in Ukraine has become a significant challenge for Chinese foreign policy and its outbound investment programs. Not only have many trade and logistic channels of the BRI been disrupted, but also China's efforts to promote its legal vision through the BRI are under threat. It can be argued that if China condemned the Russian military campaign in Ukraine, tried to persuade Russia to stop its military action, and expressed the intention to contribute to rebuilding Ukraine, then China's image around the world would be

substantially strengthened. Moreover, China could assert its position as a global peacekeeping force and would be potentially viewed as a role model for development. This would facilitate China's efforts to promote its vision of the rule of law and human rights around the world.

Even though the outcome of the war in Ukraine is not clear yet and there is still a chance that China will, to some extent, change its stance on the conflict, the current state of affairs supports the hypothesis that the EU planned rebuilding of Ukraine could indeed become a game-changer in the competition between Chinese and EU infrastructure and investment initiatives in the Western Balkans as both entities seek to promote their respective values and ideals.

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